

1 Nico Banks, Esq.  
2 [nico@bankslawoffice.com](mailto:nico@bankslawoffice.com)  
3 Filing on behalf of all Plaintiffs  
4 CA Bar No. 344705  
5 Banks Law Office  
6 712 H St NE,  
7 Unit #8571,  
8 Washington, DC 20002  
9 Tel.: 971-678-0036

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

DAVID HOUGH; et al.

Plaintiffs,

vs.

RYAN CARROLL; et al.

Defendants.

Case No.: 2:24-CV-02886-WLH

**MOTION FOR LEAVE TO  
CONDUCT EXPEDITED  
DISCOVERY**

---

**MOTION FOR LEAVE TO CONDUCT EXPEDITED DISCOVERY**

Pursuant to Federal Rule of Civil Procedure 26(d), and for the reasons discussed in the accompanying memorandum of law, Plaintiffs respectfully request leave to issue an expedited document request to the Jurisdictional Defendants, which would require them to produce their federal tax returns for the years 2021-2023 within ten days of receiving the Order.

1 Plaintiffs are also requesting leaving to issue an interrogatory, which would  
2 require Jurisdictional Defendants to identify and describe any assets that, since May  
3 of 2021, have been (1) owned or controlled, in whole or in part, directly or indirectly,  
4 by or for the benefit of any Jurisdictional Defendant; or (2) owned or controlled, in  
5 whole or in part, directly or indirectly, by or for the benefit of any corporation,  
6 partnership, asset protection trust, or other entity that is directly or indirectly owned,  
7 managed, or controlled by any Jurisdictional Defendant. The interrogatory would  
8 require the description for each asset to include an estimate of the asset's value and, if  
9 the asset is a financial account, the peak value of that account since May of 2021.  
10 However, the interrogatory would not require the disclosure of assets owned by an  
11 entity in which Jurisdictional Defendants' only ownership interest has been securities  
12 traded on a public exchange, and they would not require the disclosure of assets with  
13 a value of less than \$1,000. Plaintiffs respectfully request that the Jurisdictional  
14 Defendants be required to answer the proposed interrogatory within ten days of the  
15 Court's Order.

16  
17 Finally, Plaintiffs are also requesting leave to issue subpoenas to third-party  
18 financial institutions requiring those institutions to disclose account statements dating  
19 back to May of 2021 for any accounts that are required to be identified in the  
20 proposed interrogatory.

**MEMORANDUM OF LAW SUPPORTING MOTION FOR LEAVE TO  
CONDUCT EXPEDITED DISCOVERY**

**INTRODUCTION**

Pursuant to Federal Rule of Civil Procedure 26(d), Plaintiffs respectfully request leave to conduct the following expedited discovery relating to the Jurisdictional Defendants<sup>1</sup>: (1) issuing an expedited document request requiring the Jurisdictional Defendants to disclose their federal tax returns for the years 2021-2023; (2) issuing an expedited interrogatory to the Jurisdictional Defendants requiring them to disclose identifying information for all significant assets that they have owned since May of 2021; and (3) issuing subpoenas requiring third-party financial institutions to disclose the Jurisdictional Defendants' account statements dating back to May of 2021. The requested relief is appropriate because the existing injunctive relief and expedited discovery have proven insufficient to halt the Defendants' concealment of their assets.

**BACKGROUND**

Plaintiffs' complaint alleges that Defendants carried out a fraudulent scheme that defrauded Plaintiffs and many other individuals, and that Defendants are in the

---

<sup>1</sup> The Court has previously found that it has personal jurisdiction over Individual Defendants Ryan Carroll; Max K. Day; Max O. Day; and Michael Day, and over Entity Defendants Yax Ecommerce LLC (formerly known as Wealth Assistants); WA Distribution LLC; and Precision Trading Group, LLC (collectively, the "Jurisdictional Defendants"). *See* ECF 17.

1 process of concealing and fraudulently transferring assets for the purpose of  
2 preventing Plaintiffs and others from collecting on a judgment against Defendants.

3 On April 15, 2024, the Court issued a temporary restraining order (ECF 17,  
4 hereinafter, the “Order”) that (1) froze all assets held “by or for the benefit of” the  
5 entities and individuals that the Court referred to as the “Jurisdictional Defendants”  
6 (with certain allowances for the humans’ necessary personal expenses), and (2)  
7 ordered the Jurisdictional Defendants to disclose, within five days of receiving the  
8 order, certain identifying information about accounts holding assets “for the benefit  
9 of” the Jurisdictional Defendants.  
10  
11

12 On April 22, 2024, The Jurisdictional Defendants made disclosures in response  
13 to the Order that were clearly incomplete, at least with respect to the human  
14 Defendants. Defendant Max K. Day disclosed no assets at all; Defendants Ryan  
15 Carroll and Michael Day each disclosed less than \$1,100 worth of assets; and  
16 Defendant Max O. Day disclosed less than \$10,000 worth of assets. (Decl. of Nico  
17 Banks). Notably, on the previous Friday, the same individuals told the Court that they  
18 required \$13,000 per month for their necessary and personal expenses.  
19  
20  
21

22 The entity Jurisdictional Defendants did make significant disclosures of  
23 accounts held in those entities’ names, including an account that holds more than  
24 \$100,000 and an account that holds more than \$200,000. (*Id.*) However, the total  
25 disclosures of all assets disclosed by any Defendants total less than \$500,000. (*Id.*)  
26  
27  
28

1 On April 23, 2024, Plaintiffs told Defendants that Plaintiffs believed the  
2 Jurisdictional Defendants' disclosures were incomplete. (*Id.* at Exhibit 1). Plaintiffs  
3 stated that Jurisdictional Defendants were required to disclose not only assets that  
4 were expressly held in the Jurisdictional Defendants' names, but also assets held for  
5 the benefit of the Jurisdictional Defendants, including accounts held by the  
6 Jurisdictional Defendants' alter-ego entities. (*Id.*). The Jurisdictional Defendants  
7 disagreed; their position is that they are not required to disclose the assets held by the  
8 Jurisdictional Defendants' alter egos because Plaintiffs have not yet alleged and  
9 proven which entities are the Jurisdictional Defendants' alter egos. (*Id.*).

### 13 PROPOSED DISCOVERY

14 Plaintiffs are now requesting leave to issue an expedited document request to  
15 the Jurisdictional Defendants, which would require them to produce their federal tax  
16 returns for the years 2021-2023 within ten days of receiving the Order.

18 Plaintiffs are also requesting leaving to issue an interrogatory, which would  
19 require Jurisdictional Defendants to identify and describe any assets that, since May  
20 of 2021, have been (1) owned or controlled, in whole or in part, directly or indirectly,  
21 by or for the benefit of any Jurisdictional Defendant; or (2) owned or controlled, in  
22 whole or in part, directly or indirectly, by or for the benefit of any corporation,  
23 partnership, asset protection trust, or other entity that is directly or indirectly owned,  
24 managed, or controlled by any Jurisdictional Defendant. The interrogatory would  
25 require the description for each asset to include an estimate of the asset's value and, if  
26  
27  
28

1 the asset is a financial account, the peak value of that account since May of 2021.  
2 However, the interrogatory would not require the disclosure of assets owned by an  
3 entity in which Jurisdictional Defendants' only ownership interest has been securities  
4 traded on a public exchange, and they would not require the disclosure of assets with  
5 a value of less than \$1,000. Plaintiffs respectfully request that the Jurisdictional  
6 Defendants be required to answer the proposed interrogatory within ten days of the  
7 Court's Order.  
8  
9

10 Plaintiffs are also requesting leave to issue subpoenas to third-party financial  
11 institutions requiring those institutions to disclose account statements dating back to  
12 May of 2021 for any accounts that are required to be identified in the proposed  
13 interrogatory.  
14

### 15 **LEGAL STANDARD**

16  
17 Although “[t]here is scant authority on the standards governing the availability  
18 of expedited discovery before the Rule 26(f) scheduling conference in civil cases,”  
19 district courts in the Ninth Circuit have noted that “[e]xpedited discovery is  
20 particularly appropriate when a plaintiff seeks injunctive relief because of the  
21 expedited nature of injunctive proceedings.” *Yokohama Tire Corporation v. Dealers*  
22 *Tire Supply*, 202 F.R.D. 612, 613 (D. Ariz. 2001) (internal citations and quotation  
23 marks omitted).  
24  
25

26 Moreover, courts weigh the following factors when deciding whether to allow  
27 expedited discovery: “(1) irreparable injury, (2) some probability of success on the  
28

1 merits, (3) some connection between expedited discovery and the avoidance of the  
2 irreparable injury, and (4) some evidence that the injury that will result without  
3 expedited discovery looms greater than the injury that the defendant will suffer if the  
4 expedited relief is granted.” *Id.* at 613-14.  
5

## 6 ARGUMENT

### 7 I. Four Factors Weigh In Favor Of Expedited Discovery

8 Here, all four factors heavily weigh in favor of allowing expedited discovery.  
9  
10 Indeed, with respect to the first three factors, the Court already determined that: (1)  
11 Plaintiffs would likely be irreparable injured absent relief from the Court because the  
12 Jurisdictional Defendants’ concealment of assets would likely render final relief  
13 impossible; (2) Plaintiffs have a likelihood of success on the merits; and (3) requiring  
14 the Jurisdictional Defendants to make certain disclosures about their assets would  
15 help avoid the irreparable injury. (ECF 18).  
16  
17

18 The fourth factor also weighs heavily in favor of allowing the expedited  
19 discovery because the relief that Plaintiffs initially requested—and that the Court  
20 ordered—has proven inadequate to stop the concealment of assets. More specifically,  
21 as discussed above, the initial Order required the Jurisdictional Defendants to disclose  
22 accounts holding assets “for the benefit of” Jurisdictional Defendants. Yet, the  
23 Jurisdictional Defendants interpreted that Order to *not* require them to disclose (or,  
24 presumably, to refrain from transferring and further concealing) assets held by the  
25 Jurisdictional Defendants’ alter-ego entities.  
26  
27  
28

1 As a result, in total, the four human Jurisdictional Defendants have disclosed  
2 less than \$15,000. That is clearly not a complete disclosure of the assets held for their  
3 benefit because (1) the Jurisdictional Defendants represented to the Court just last  
4 week that they required \$13,000 per month for necessary personal expenses, (2) the  
5 Jurisdictional Defendants were the perpetrators and beneficiaries of a fraudulent  
6 scheme that likely raised around \$45 million, and (3) the Jurisdictional Defendants  
7 have set up numerous alter-ego entities that are almost certainly holding assets for the  
8 benefit of Jurisdictional Defendants.  
9

10  
11 Because it is clear that the Jurisdictional Defendants' disclosures are grossly  
12 incomplete, meaning that the Jurisdictional Defendants are continuing to conceal  
13 (and, presumably, dissipate) assets held for their benefit, Plaintiffs will likely suffer  
14 injury absent expedited discovery; the concealment of assets will likely render final  
15 relief to Plaintiffs impossible. *See Yokohama*, 202 F.R.D. at 613 (noting that courts  
16 deciding whether to allow expedited discovery should consider whether there is  
17 "some evidence that the injury that will result without expedited discovery looms  
18 greater than the injury that the defendant will suffer if the expedited relief is  
19 granted."). Moreover, the injury that Plaintiffs will suffer without the requested relief  
20 is much greater than any injury the Jurisdictional Defendants will suffer as a result of  
21 the limited expedited discovery requested. The Jurisdictional Defendants are only  
22 being asked to provide basic information about the financial assets they own or  
23 control, which should not be a difficult process. *See id.*  
24  
25  
26  
27  
28



## II. Courts In Nearly Identical Cases Have Allowed Broader Expedited Discovery

Notably, at the outset of two very similar cases, district courts in the Ninth Circuit have required the defendants to make all of the disclosures that Plaintiffs have requested in this case. *Federal Trade Commission v. Automators*, 23-cv-1444 (S. D. Cal. 2023), ECF 8; *FTC v. AWS*, 18-cv-00442 (D. Nev. 2018), ECF 29. Indeed, the courts in those two cases allowed the plaintiff—the Federal Trade Commission (“FTC”)—to conduct substantially more expedited discovery, such as taking expedited depositions on 48-hour notice. *Automators*, 23-cv-1444, ECF 8, at 31.

Defendants have previously argued that the FTC Act gives the FTC broader authority than private plaintiffs have to request emergency relief from a court, but that is not true. Whether the plaintiff is the FTC or a private party, the same federal rules of civil procedure govern the issuance of preliminary injunctive relief as well as expedited discovery. *See id.* at 3 (noting that, even when the FTC is the plaintiff, “Rule 65(b) governs the issuance of a temporary restraining order,” and finding that Rule 65(b) allowed the court to order the expedited discovery that the FTC had requested).

## CONCLUSION

For the reasons discussed above, Plaintiffs respectfully request that the Court allow Plaintiffs leave to issue the requested expedited discovery.

DATED: April 25, 2024

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

/s/Nico Banks  
Nico Banks, Esq.  
Banks Law Office  
Bar No. 344705  
Tel.: 971-678-0036  
nico@bankslawoffice.com  
712 H St NE,  
Unit #8571,  
Washington, DC 20002

**WORD COUNT COMPLIANCE CERTIFICATION**

The undersigned, counsel of record for Plaintiffs, certifies that this brief contains fewer than 7,000 words, which complies with the word limit of L.R. 11-6.1

/s/Nico Banks

Nico Banks

Dated: April 25, 2024

**AFFIRMATION OF SERVICE**

On April 25, 2024, I caused this document to be emailed to Lema Mousilli ([lema@lloydmousilli.com](mailto:lema@lloydmousilli.com)) and Rachel Crockett ([rachel@lloydmousilli.com](mailto:rachel@lloydmousilli.com)), who are the attorneys for Respondents in this action.

/s/Nico Banks

Nico Banks

Dated: April 25, 2024

**CERTIFICATE CONFIRMING MEET AND CONFER DISCUSSIONS**

Between April 23, 2024 and April 24, 2024, the Parties conferred in good faith, via email and telephone conversations, to attempt to resolve the disputes discussed herein. The Parties were unable to reach a resolution. *See* Exhibit A, at Exhibit 1.

/s/Nico Banks

Nico Banks

Dated: April 25, 2024